

A BILL

To promote economic development and stability in Southeast Europe by providing countries in that region with additional trade benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.--

This Act may be cited as the “Southeast Europe Trade Preference Act”.

SEC. 2. FINDINGS AND POLICY.--

(a) FINDINGS.—The Congress finds that –

(1) the economic development and stability of certain countries in Southeast Europe will be enhanced by providing them with additional trade benefits;

(2) offering additional trade benefits to Southeast Europe is a key component of the Stability Pact, a greater initiative designed to bring stability and economic development to Southeast Europe through regional revitalization, development, democratization, stabilization and integration, to which the United States and over 40 European and North American countries and institutions committed in Sarajevo in July 1999;

(3) providing additional trade benefits to countries of Southeast Europe will improve their access to the U.S. market, promote the development of investment in the region, help further these countries’ economic development and promote political stability in the region; and

(4) the promotion of economic and political security in Southeast Europe will enhance the economic and national security interests of the United States.

(b) POLICY.—It is therefore the policy of the United States to offer those Southeast European beneficiary countries additional trade benefits as they attempt to revitalize and reintegrate their economies following devastating conflict in the region with the goal of promoting political and economic security.

SEC. 3. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this Act.

SEC. 4. DEFINITIONS.—As used in this Act—

(1) **BENEFICIARY COUNTRY.**—The term “beneficiary country” means any country or territory listed in section 5(a)(1) with respect to which there is in effect a proclamation by the President designating such country or territory as a beneficiary country for purposes of this Act.

(2) **COUNTRY.**—The term “country” means a foreign country or territory.

(3) **ENTERED.**—The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) **HTS.**—The term “HTS” means Harmonized Tariff Schedule of the United States.

(5) **ARTICLE.**—The term “article” means the goods provided for in any individual 8-digit HTS tariff rate line.

SEC. 5. BENEFICIARY COUNTRIES.

(a) **COUNTRIES ELIGIBLE FOR DESIGNATION; CONGRESSIONAL NOTIFICATION.**—(1) In designating countries as beneficiary countries under this Act, the President shall consider only the following countries and territories:

Albania

Bosnia and Herzegovina

Bulgaria

Croatia

Former Yugoslav Republic of Macedonia

Romania

Slovenia

Kosovo

Montenegro

(2) Before the President designates any country a beneficiary country for purposes of this Act, the President shall notify the House of Representatives and the Senate of the President's intention to make such designation, together with the considerations entering into such decision.

(b) **LIMITATIONS ON DESIGNATION.**—The President shall not designate any country a beneficiary country under this Act—

(1) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless—

(D) the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law

are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and promptly furnishes a copy of such determination to the Senate and House of Representatives;

(2) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(3) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce;

(4) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(5) unless a treaty, convention, protocol or other agreement regarding the extradition of United States citizens is applicable to such country;

(6) if such country has not taken or is not taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of coerced or compulsory labor (including trafficking in persons), a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; and

(7) if such country is a member of the European Union.

Paragraphs (1) through (6) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) **FACTORS AFFECTING DESIGNATION.**—In determining whether to designate any country a beneficiary country under this Act, the President shall take into account—

- (1) an expression by such country of its desire to be so designated;
- (2) the economic conditions in such country, the living standards of its inhabitants, and any other factors which he deems appropriate;
- (3) the extent to which such country has assured the United States it will provide equitable and reasonable access to such country's—
 - (A) basic commodity resources and
 - (B) markets with respect to the products for which benefits are provided under this Act, and in other relevant product sectors as determined by the President;
- (4) the degree to which such country follows the accepted rules of international trade provided for under the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act);
- (5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;
- (6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;
- (7) the degree to which such country is undertaking self-help measures to promote its own economic development;
- (8) the extent to which such country affords to workers in that country (including any designated zone in that country) internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of coerced or compulsory labor (including trafficking in persons), a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;
- (9) the extent to which the country adopts, maintains, and effectively enforces laws providing for high levels of environmental protection;

(10) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(11) the degree to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(12) the degree to which the country is taking effective measures to prevent production of, or trafficking in, illicit drugs;

(13) the degree to which the country provides for effective prohibitions on bribery and other corrupt practices affecting international trade;

(14) the degree to which the country applies transparent procedures in government procurement and contributes to efforts in international fora to develop and implement international rules on transparency in government procurement;

(15) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

The President may consider that a country is not providing adequate and effective protection of intellectual property rights under paragraph (10), even if the country is in compliance with the country's obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)).

(d) **WITHDRAWAL OR SUSPENSION OF DESIGNATION.**—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country,
or

(B) withdraw, suspend, modify or limit the application of preferential treatment under this Act to any article of any country,

if, after such designation, the President determines that such action is appropriate based on the limitations in subsection (b) or on the factors in subsection (c) of this section.

(2) (A) The United States Trade Representative shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days before taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the United States Trade Representative publishes under subparagraph (A) notice of proposed action—

- (i) accept written comments from the public regarding such proposed action,
- (ii) hold a public hearing on such proposed action, and
- (iii) publish in the Federal Register—
 - (I) notice of the time and place of such hearing prior to the hearing, and
 - (II) the time and place at which such written comments will be accepted.

(3) In the event the President withdraws, suspends, modifies or limits the application of duty-free treatment accorded to a country under the Generalized System of Preferences based on one or more of the eligibility criteria in section 501 of the Trade Act of 1974 (19 U.S.C. 2462) that are the same or similar to one or more of the eligibility criteria set forth in this section, the President shall likewise withdraw, suspend, modify or limit the application of preferential treatment accorded to that country under this Act.

(e) REPORT.—Not later than February 1, 2003, the President shall submit to the Congress a complete report regarding the operation of this Act, including the results of a general review of beneficiary countries based on the considerations described in subsections (b) and (c).

(f) KOSOVO AND MONTENEGRO.—Kosovo and Montenegro may be designated as beneficiary countries notwithstanding the provisions of Public Law 102-420 (19 U.S.C. 2432 note), concerning the withdrawal of non-discriminatory treatment of goods that are the product of Serbia or Montenegro, or any other law.

(g) FEDERAL REPUBLIC OF YUGOSLAVIA.—Notwithstanding the limitation in section 5(a)(1), the Federal Republic of Yugoslavia may be considered eligible for designation as a beneficiary country under this Act if the President determines that relevant authorities in the government of the Federal Republic of Yugoslavia and the government of the Republic of Serbia have made significant progress in meeting the following objectives:

- (1) participation in a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords;
- (2) compliance with the General Framework Agreement for Peace in Bosnia and Herzegovina;
- (3) implementation of internal democratic reform;

(4) cooperation on all succession issues with the other republics that emerged from the dissolution of the Socialist Federal Republic of Yugoslavia;

(5) cooperation with the International Criminal Tribunal for the Former Yugoslavia, including transfer of all indicted war criminals in the Federal Republic of Yugoslavia to the Hague; and

(6) peaceful and democratic resolution of differences between its constituent republics, Serbia and Montenegro, over the structure of shared governmental institutions.

SEC. 6. ELIGIBLE ARTICLES.

(a) IN GENERAL.—(1) Unless otherwise excluded from eligibility by this Act, the duty-free treatment provided under this Act shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries under this Act, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this Act, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase “direct costs of processing operations” includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(b) **EXCEPTION TO DUTY-FREE TREATMENT.**—The duty-free treatment provided under this Act shall not apply to textile and apparel articles which are not eligible for duty-free treatment under section 503(b)(1)(A) of the Trade Act of 1974, as amended (19 U.S.C. 2463 (b)(1)(A)).

(c) **SUSPENSION OF DUTY-FREE TREATMENT.**— (1) The President may by proclamation suspend the duty-free treatment provided by this Act with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this Act, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of duty-free treatment provided by this Act shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any articles shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974,

determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this Act.

(5) (A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 3 of this Act shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 3 of this Act, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(d) **EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.**—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection—

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, the Secretary shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of the Secretary's determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, the President shall issue a proclamation withdrawing the duty-free treatment provided by this Act or publish a notice of the President's determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term “perishable product” means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds of subheading 0810.90.25 and kiwi fruit of subheading 0810.50.00, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(e) SECTION 22 FEES.—No proclamation issued pursuant to this Act shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

(f) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this Act.

SEC. 7. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the final period the phrase “, or a country designated as a beneficiary country under the Southeast Europe Trade Preference Act.”.

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by redesignating existing subdivision (F) as “(G)”, and by adding in alphabetical sequence the following:

“(F) Subject to the provisions in section 5 of the Southeast Europe Trade Preference Act, goods which are imported from the insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.”

(c) SECTION 301.—Section 301(c) of the Trade Act of 1974 (19 U.S.C. 2411) is amended in paragraph (1)(C) by striking “or” after “(19 U.S.C. 2702 (b) and (c))” and inserting “or section 5(b) and (c) of the Southeast Europe Trade Preference Act,” after “19 U.S.C. 3202(b) and (c)),”.

SEC. 8. INTERNATIONAL TRADE COMMISSION REPORT ON IMPACT OF THE SOUTHEAST EUROPE TRADE PREFERENCE ACT.

(a) REPORTING REQUIREMENT.—(1) No later than October 1, 2002, the United States International Trade Commission (referred to in this section as the “Commission”) shall submit to the Congress and the President a report regarding the economic impact of this Act on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this Act in promoting regional reconstruction.

(2) For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries.

(b) REQUIREMENTS FOR REPORT.-- (1) The report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this Act on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and

(B) the probable future effect that this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act terminate.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this Act, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales,

inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this Act.

(c) **SUBMISSION DATES; PUBLIC COMMENT.**—The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the report.

SEC. 9. IMPACT STUDY BY THE SECRETARY OF LABOR.

(a) The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this Act has with respect to United States labor, shall review developments in labor conditions in the beneficiary countries, and, no later than October 1, 2002, shall make a report to Congress on the results of such review and analysis.

(b) For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries.

SEC. 10. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) **EFFECTIVE DATE.**—This Act shall take effect on the date of enactment.

(b) **TERMINATION OF DUTY-FREE TREATMENT.**—No duty-free treatment extended to beneficiary countries under this Act shall remain in effect 5 years after the date of the enactment of this Act.

SEC. 11. REVENUE OFFSETS.

(a) **CHARITABLE SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.**

(1) **IN GENERAL.**— Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

‘(10) **SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.**—

‘(A) IN GENERAL- Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer--

‘(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

‘(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

‘(B) PERSONAL BENEFIT CONTRACT- For purposes of subparagraph (A), the term ‘personal benefit contract’ means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

‘(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS- In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

‘(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS- If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if--

‘(i) such organization possesses all of the incidents of ownership under such contract,

‘(ii) such organization is entitled to all the payments under such contract, and

‘(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

‘(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS- A person shall not be treated for purposes of subparagraph (B)

as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if--

‘(i) such trust possesses all of the incidents of ownership under such contract, and

‘(ii) such trust is entitled to all the payments under such contract.

‘(F) EXCISE TAX ON PREMIUMS PAID-

‘(i) IN GENERAL- There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

‘(ii) PAYMENTS BY OTHER PERSONS- For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

‘(iii) REPORTING- Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes--

‘(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

‘(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

‘(iv) CERTAIN RULES TO APPLY- The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

‘(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT- In the case of an obligation to pay

a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if--

‘(i) such State law requirement was in effect on February 8, 1999,

‘(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

‘(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

‘(H) MEMBER OF FAMILY- For purposes of this paragraph, an individual's family consists of the individual's grandparents, the grandparents of such individual's spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.

‘(I) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.’.

(2) EFFECTIVE DATE-

(A) IN GENERAL- Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to transfers made after February 8, 1999.

(B) EXCISE TAX- Except as provided in paragraph (C) of subsection (a)(2), section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this subsection) shall apply to premiums paid after the date of the enactment of this Act.

(C) REPORTING- Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

(b) RESTRICTION ON USE OF REAL ESTATE INVESTMENT TRUSTS TO AVOID ESTIMATED TAX PAYMENT REQUIREMENTS.

(1) IN GENERAL- Subsection (e) of section 6655 (relating to estimated tax by corporations) is amended by adding at the end the following new paragraph:

‘(5) TREATMENT OF CERTAIN REIT DIVIDENDS-

‘(A) IN GENERAL- Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsections (d)(5) and (l)(3)(B) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

‘(B) CLOSELY HELD REIT- For purposes of subparagraph (A), the term ‘closely held real estate investment trust’ means a real estate investment trust with respect to which five or fewer persons own (after application of subsections (d)(5) and (l)(3)(B) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.’.

(2) EFFECTIVE DATE- The amendment made by subsection (b) shall apply to estimated tax payments due on or after September 15, 1999.